

**IN THE MARSHALL CIRCUIT COURT
AND MARSHALL SUPERIOR COURTS**

STATE OF INDIANA)
COUNTY OF MARSHALL)

IN THE MATTER OF JOINT)
LOCAL COURT RULES)

**ORDER FINDING GOOD CAUSE TO DEVIATE
FROM THE SCHEDULE FOR ADOPTING LOCAL COURT
RULES AND REQUEST FOR SUPREME COURT APPROVAL**

The Judges of Marshall County Indiana, according to T.R. 81(D), find that good cause exists to deviate from the schedule established for the amendment of local court rules for the proposed amendment to the caseload allocation plan submitted pursuant to Administrative Rule 1 (E) and request approval of the Indiana Supreme Court.

Comments may be made for thirty (30) days after posting and may be submitted to: The Honorable Michael D. Cook, Judge, Marshall Circuit Court, 501 N. Center Street, # 301, Plymouth, IN 46563-1707, or at mcook@co.marshall.in.us.

The proposed revision to the Marshall County Local Court Rules LR50-TR81 & AR1 (E)-MLR-010, and LR50-CR2.2-MLR-014 shall take effect on January 1, 2008 and after approval by the Indiana Supreme Court.

SO ORDERED THIS 14th DAY OF NOVEMBER 2007.

_____/S/_____
MICHAEL D. COOK, Judge, Marshall Circuit Court

_____/S/_____
ROBERT O. BOWEN, Judge, Marshall Superior Court #1

_____/S/_____
DEAN A. COLVIN, Judge, Marshall Superior Court #2

LR50- TR81& AR1(E) -MLR-010

Local Caseload Allocation Plan

PROPOSED AMNDMENT EFFECTIVE 1/01/08

~~The weighted caseload for Marshall County in 2005 was 3.97. Marshall County has three (3) judges. The annual average caseload for each judge equaled 1.32. The judge of the Marshall Circuit Court is .27 below the average and the judge of the Marshall Superior Court #1 is within .14 points of the average. The judge of the Marshall Superior Court #2 exceeded the average by .41 percentage points, which is fewer points differential than when Marshall County's plan was last submitted and approved by the Supreme Court in 1999.~~

~~The judges of the Courts of Marshall County agree that the distribution of cases is currently acceptable in Marshall County in as much as Superior Court #2 handles the high volume matters including small claims, misdemeanors, and infractions. Superior Court #2 is appropriately staffed with six (6) employees while Circuit Court and Superior Court #1 have only three (3) employees each. The facilities in Marshall County are designed to accommodate the staff and case filings as currently exist in Marshall County. The judges in Marshall County also assist each other with the transfer of cases as needed and help with caseloads as requested.~~

~~Given these factors, the current method of filing and handling cases in Marshall County provides for an expedient disposition for the litigants involved and the Judges see no reason for changing the current system. However, as caseloads need to be addressed in the future the following shall control;~~

In order to meet the statistical requirements mandated by the Indiana Supreme Court original case filings shall be made in the following Courts as follows effective January 1, 2008:

Marshall Circuit Court

All JC, JD, JS, JP, JM, JT, PL, MF,RS, MH, GU, ES/EU, TR case types.

Marshall Superior Court #1

All Capital Murder, Murder, FA, FB, FC, FD case types.

Marshall Superior Court #2

All CM, IF, OV, SC, case types.

In addition:

the following shall be filed in either the Marshall Circuit Court or Marshall Superior Court # 1:

All DR, AD, AH and PO case types.

the following shall be filed in either the Marshall Circuit Court or Marshall Superior Court #2:

All CT and CC case types.

and, PC, MI and MC filings shall be made in the most appropriate Court for the matter that needs to be addressed.

Transfers shall be permitted between Courts with the approval of the participating judges.

Judicial officers shall be authorized to act and conduct trials and hearings of all types in any of the courts of Marshall County in the event the presiding judge is unavailable or requests assistance.

~~Future filings shall be diverted from the overly burdened Court to the other Courts as agreed by the Judges.~~

~~The judge or judges of the courts with the smaller caseloads will assist the judge with the heaviest caseload by scheduling, as needed, a day or days for conducting hearings on matters pending in the burdened court.~~

Upon approval by the Supreme Court, this rule shall remain in effect until further order.

LR50-CR2.2-MLR-014
Criminal Case Assignment
PROPOSED AMENDMENT EFFECTIVE 1/01/08

~~(A)~~ CASE ASSIGNMENT

~~———— All cases wherein the most serious charge is a Class C Felony, Class B Felony, Class A Felony or the charge is Murder shall be assigned to the Marshall Superior Court No. 1 except as hereinafter set forth.~~

~~———— All cases wherein the most serious charge is a Class D Felony and all misdemeanors, infractions and ordinance violations shall be assigned to the Marshall Superior Court No. 2 except as hereinafter set forth.~~

~~———— All Class D Felonies which involve allegations of non-support shall be filed in the Court wherein the underlying support order is entered. Primarily, that will be either the Marshall Circuit Court or Marshall Superior Court No. 1.~~

~~———— All cases involving juvenile jurisdiction shall be filed in the Marshall Circuit Court.~~

~~———— All juvenile cases that are waived to adult court shall be filed in the Marshall Circuit Court regardless of the felony or misdemeanor status.~~

~~(B)~~(A) TRANSFER

A judge of the Marshall Circuit Court, Marshall Superior Court No. 1 or Marshall Superior Court No. 2 may, by appropriate order entered in its record of judgments and orders, transfer and reassign a case or cases to either of the other courts of record in Marshall County with jurisdiction to hear the charged offense, subject to acceptance by the judge of the receiving court.

~~(C)~~(B) REFILING AND SUBSEQUENT FILINGS

When the State of Indiana dismisses a case and chooses to refile the case, the case shall be assigned to the court from which the dismissal was taken.

In the event charges have been filed against a criminal defendant and subsequent charges of a Class C Felony or greater are filed in the Marshall Superior Court No. 1, those charges pending in Marshall Superior Court No. 2 or the Marshall Circuit Court of a lesser degree shall be reassigned to the Marshall Superior Court No. 1.

(~~D~~)(C) REASSIGNMENT

In the event a change of judge is granted or it becomes necessary to assign another judge in any felony or misdemeanor proceeding the case shall be returned to the Clerk of the Court for assignment to one of the other courts in Marshall County on an alternating basis contingent upon approval by the judge of the court next in line for assignment. In the event the judge next in line for assignment of a case declines assignment the remaining court shall be subject to assignment of the case unless the presiding judge also declines assignment.

In the event a change of judge is granted or it becomes necessary to assign the case to another judge and the other judges in Marshall County decline assignment of that case, the case shall then be assigned on an alternating basis to one of the senior judges certified to the courts of Marshall County.

(~~E~~) (D) APPOINTMENT OF SPECIAL JUDGE

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in the felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indiana Supreme Court for such appointment.